

STATE OF THE

Insured Retirement Industry

2020 Review and
2021 Outlook

JUNE 2021





About the Insured Retirement Institute

The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks, and marketing organizations. IRI members account for 90 percent of annuity assets in the U.S., include the top ten distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

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Overview

2020 was an extraordinarily challenging year for the retirement income industry. The adaptations that had to be made quickly and efficiently due to COVID-19, combined with significant shifts in sales among product types precipitated by an interest rate environment few envisioned, put significant stress on all aspects of production.

Many in the industry were personally affected by the pandemic, losing family members and friends. However, it is no exaggeration to say that operationally the industry made more progress toward modernization and electronic processing in one year than in the prior several, and those successes will help shape the future and drive the industry forward. On the advocacy front, forward thinking legislators are helping to pave the way for retirement savers to achieve greater success in planning for their futures. 2021 should prove to be a year of increasing

annuity sales, progress toward better retirement policy, and movement closer to a fully digital experience for advisors and consumers.

THIS REPORT FOCUSES ON FOUR FUNDAMENTAL AREAS OF IMPORTANCE TO IRI MEMBERS



**Annuity
marketplace data
and trends**



**Trends in
annuity product
development**



**Operations
and technology
advancements and
milestones**



**Updates on
the legislative
and regulatory
environments**

Annuity Markets in 2020

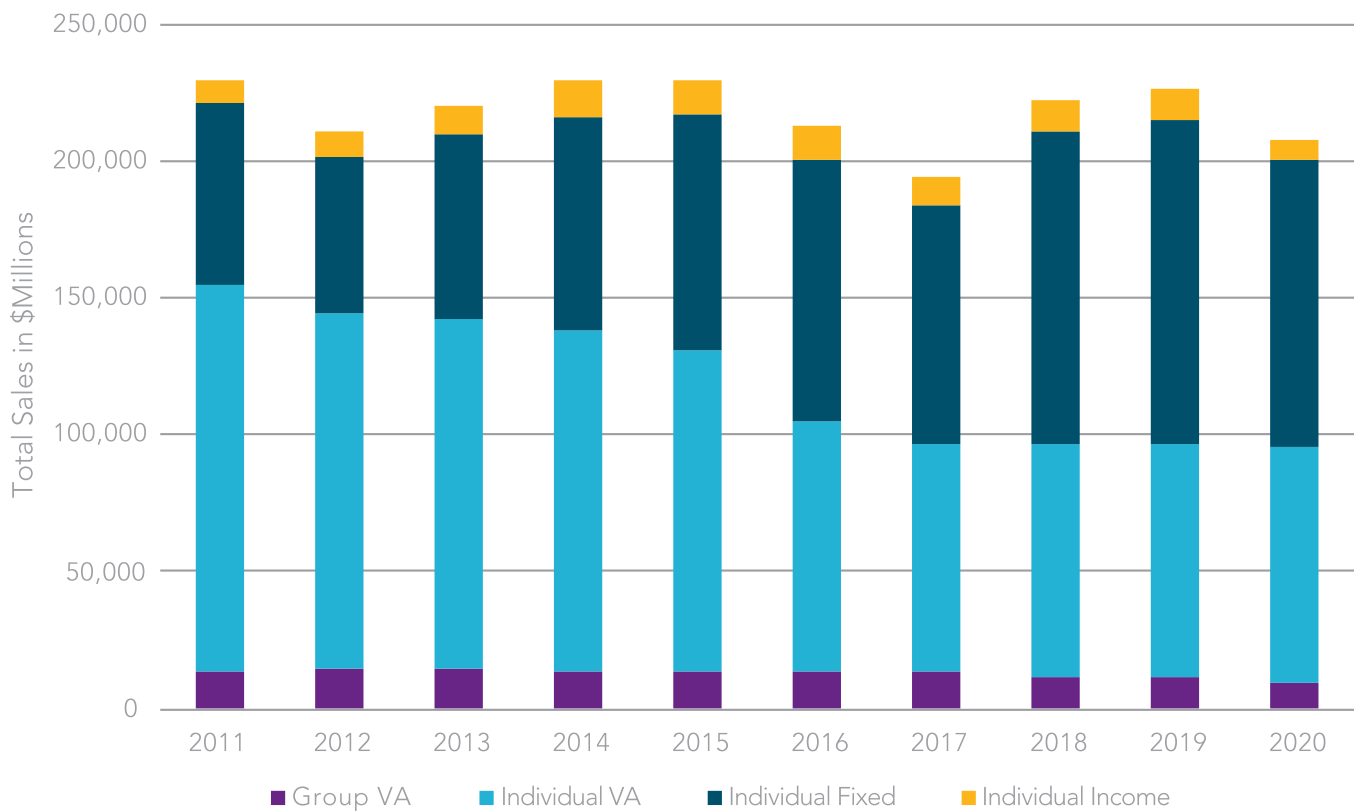
Sales of annuities were off 8.4 percent in 2020, with most of the decline in the second and third quarters as the pandemic took hold and disrupted processes. Sales began to recover in the fourth quarter with many categories seeing increases in sales that carried into the first quarter of 2021.

Drilling down into specific product categories, the trend from the past few years of flat individual variable annuity sales and falling fixed annuity sales held through the pandemic as historically low interest rates continue to hit fixed products relatively hard and variable annuities were bolstered by strong sales of registered indexed linked annuities (RILAs). By contrast, group variable sales fell off rather steeply in 2020, likely reflecting reductions in defined contribution plan deposits due to the impact of the pandemic on employment and participant saving behaviors.

Breaking down variable annuity sales into sub-categories, the decline in sales of commissionable variable annuities offering guaranteed lifetime income benefits (GLIB), which sold at least four times the volume of any other category 10 years ago, is evident in year-over-year numbers. This is especially true across the two years leading up to the 2020 pandemic when interest rates began their precipitous decline. RILA sales, conversely, while still representing less than half the sales volume of the Variable Annuity with Guaranteed Lifetime Income Benefit (VA-GLIB) category, have doubled just in the last two years. Fixed indexed sales are off the most of any subcategory in the fixed annuity universe as low interest rates have reduced caps and the “shared risk” model of RILAs has grown in popularity.

DATA PROVIDED: FIGURE 1 THROUGH 4 AND THE ACCOMPANYING DATA TABLES ON THE FOLLOWING PAGES SHOW THE EVOLUTION OF ANNUITY SALES AND MARKET SHARE OVER THE PAST DECADE FOR BOTH BROAD PRODUCT TYPES (FIXED VERSUS VARIABLE) AND THROUGH THE MORE DETAILED LENS OF SPECIFIC PRODUCT TYPE.

Figure 1: Historic Annuity Sales by Variable versus Fixed

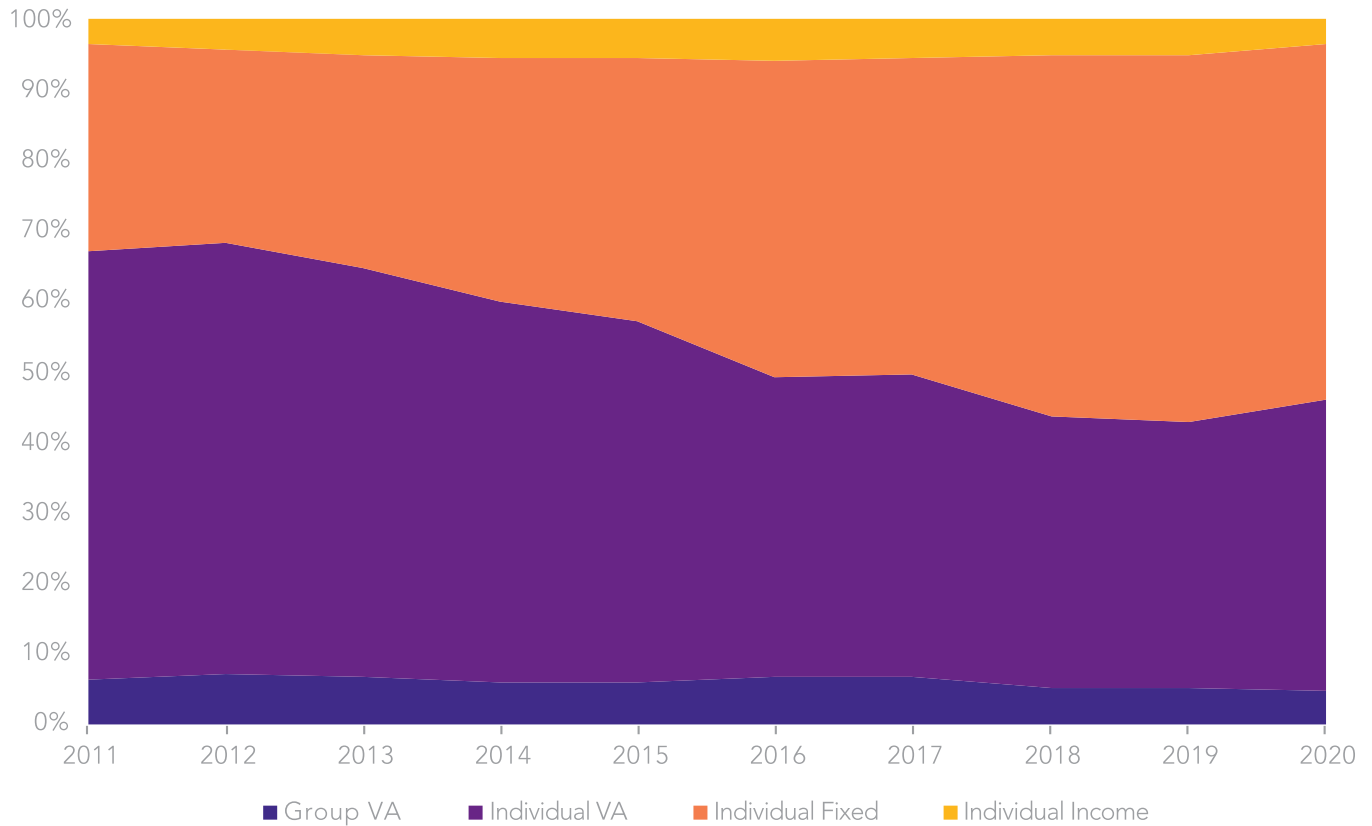


SOURCE: MORNINGSTAR, INC. AND BEACON ANNUITY SOLUTIONS

Figure 1 Data Table: Historic Annuity Sales in \$Millions

Broad Type	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Group VA	13,949	14,669	14,543	13,264	13,508	13,769	13,068	11,443	11,074	9,862
Individual VA	139,952	129,250	127,523	124,522	117,548	90,810	83,113	85,605	85,952	85,858
Individual Fixed	67,092	57,788	67,053	78,509	85,867	95,695	87,386	113,611	117,564	104,346
Individual Income	8,481	9,197	11,030	13,021	12,523	12,317	10,459	11,412	11,916	7,399
	229,770	210,905	220,149	229,315	229,446	212,592	194,026	220,071	226,507	207,473

Figure 2: Historic Market Share by Product Type

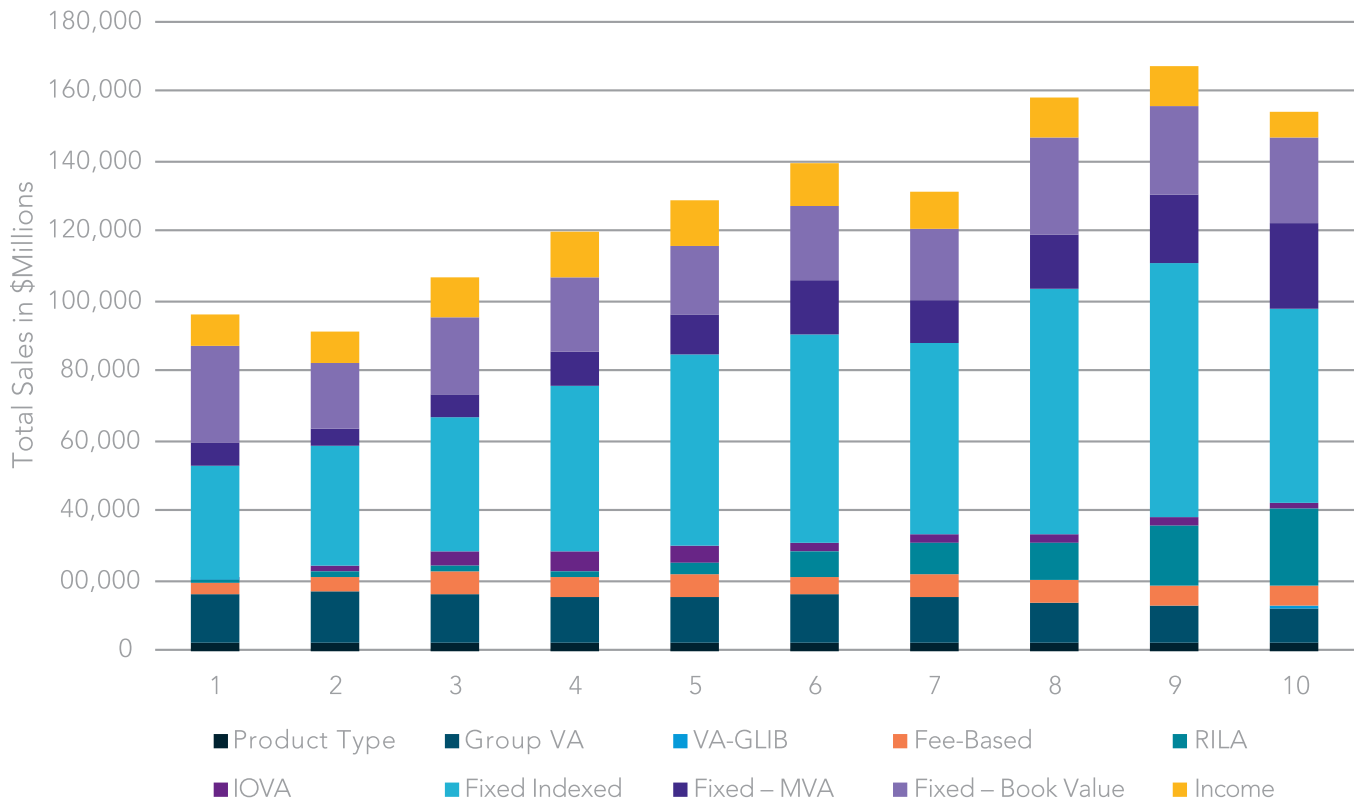


SOURCE: MORNINGSTAR, INC. AND BEACON ANNUITY SOLUTIONS

Figure 2 Data Table: Historic Annuity Market Share

Product Type	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Group VA	6%	7%	7%	6%	6%	6%	7%	5%	5%	5%
Individual VA	61%	61%	58%	54%	51%	43%	43%	39%	38%	41%
Individual Fixed	29%	27%	30%	34%	37%	45%	45%	51%	52%	50%
Individual Income	4%	4%	5%	6%	5%	6%	5%	5%	5%	4%

Figure 3: Historic Annuity Sales by Product Type

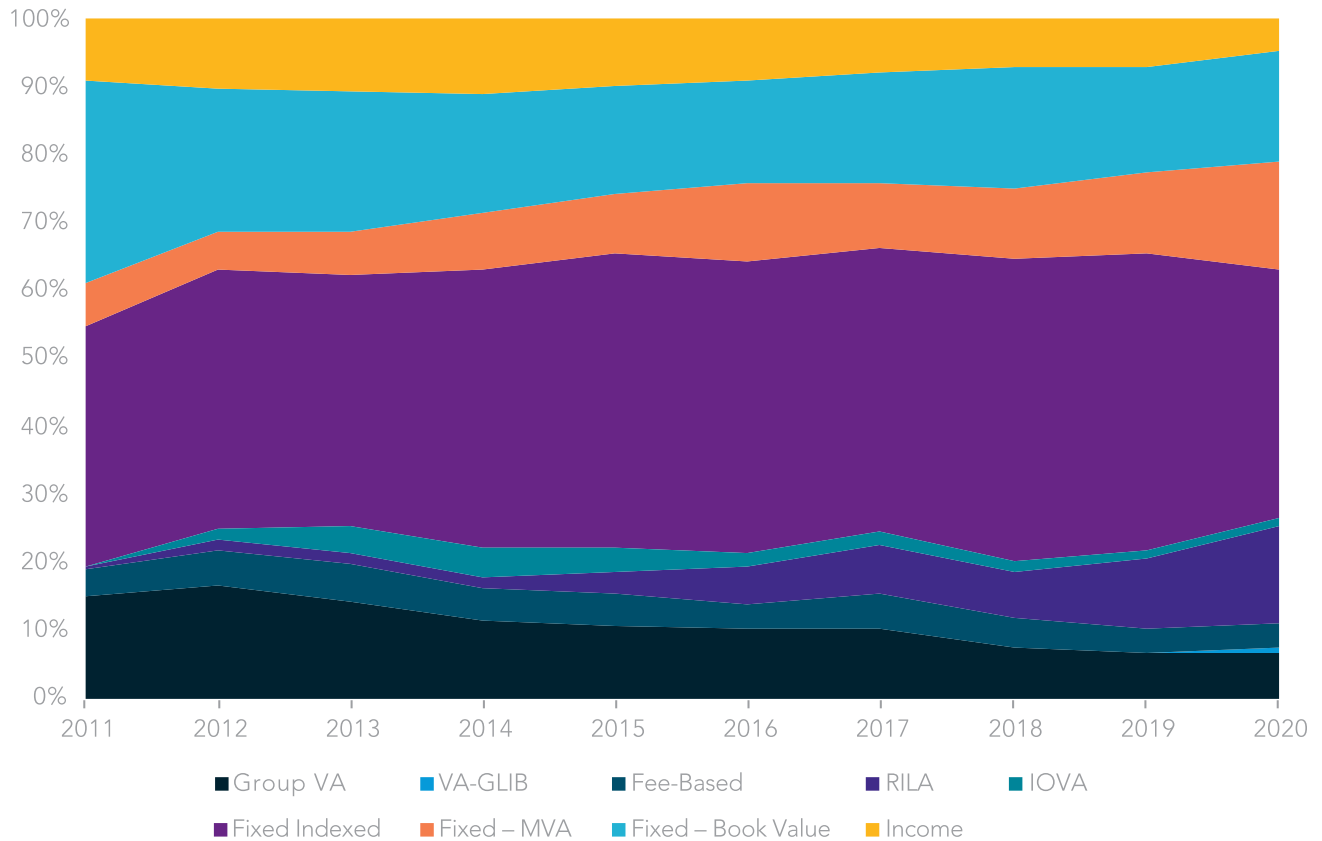


SOURCE: MORNINGSTAR, INC. AND BEACON ANNUITY SOLUTIONS

Figure 3 Data Table: Historic Annuity Sales in \$Millions

Product Type	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Group VA	13,949	14,669	14,543	13,264	13,508	13,769	13,068	11,443	11,074	9,870
VA-GLIB	135,952	121,762	115,869	111,702	102,976	75,388	64,662	65,668	61,113	56,473
Fee-Based	4,200	4,700	5,800	5,900	6,000	5,300	6,800	8,800	5,738	5,677
RILA	457	1,413	1,783	1,776	3,746	7,314	9,085	11,074	17,259	21,844
IOVA	24	1,375	4,072	5,144	4,826	2,808	2,566	2,165	1,842	1,864
Fixed Indexed	32,978	34,198	38,710	47,958	54,603	58,756	54,276	69,882	72,466	55,407
Fixed – MVA	5,996	4,751	6,716	9,778	11,058	16,025	12,371	15,838	19,859	24,467
Fixed – Book Value	28,117	18,840	21,627	20,772	20,206	20,914	20,739	27,890	25,239	24,472
Income	8,481	9,197	11,030	13,021	12,523	12,317	10,459	11,412	11,916	7,399
	230,154	210,905	220,149	229,315	229,446	212,592	194,026	224,173	226,507	207,473

Figure 4: Historic Product Share by Product Type



SOURCE: MORNINGSTAR, INC. AND BEACON ANNUITY SOLUTIONS

Figure 4 Data Table: Historic Annuity Market Share

Product Type	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Group VA	7%	6%	7%	7%	6%	6%	6%	7%	5%	5%	5%
VA-GLIB	56%	59%	58%	53%	49%	45%	35%	33%	29%	27%	27%
Fee-Based	2%	2%	2%	3%	3%	3%	2%	4%	4%	3%	3%
Structured	0%	0%	1%	1%	1%	2%	3%	5%	5%	8%	11%
IOVA	0%	0%	1%	2%	2%	2%	1%	1%	1%	1%	1%
Fixed Indexed	16%	14%	16%	18%	21%	24%	28%	28%	31%	32%	27%
Fixed – MVA	3%	3%	2%	3%	4%	5%	8%	6%	7%	9%	12%
Fixed – Book Value	14%	12%	9%	10%	9%	9%	10%	11%	12%	11%	12%
Income	4%	4%	4%	5%	6%	5%	6%	5%	5%	5%	4%

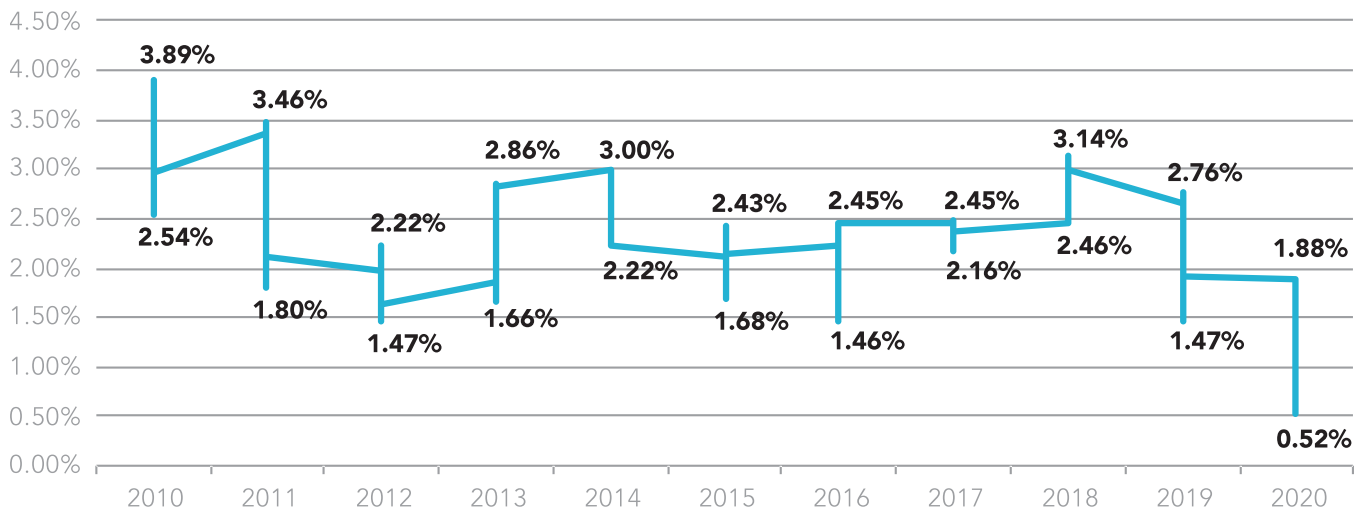
Interest Rates

The 10 Year U.S. Treasury Bond hit a low point of 52 basis points on August 4, 2020 from a high of 1.88 percent and had recovered to 93 basis points by year-end.

Long-term interest rates below three percent create a very challenging environment for insurance companies in terms of reserving against their liabilities, reinsurance capacity and hedging costs, and falling below one percent was historically unprecedented. As of this writing, rates have recovered somewhat, with the 10 Year currently at 1.59 percent, but this is far from an optimal level for the industry. Expect more emphasis on “shared risk” model products such as RILAs until rates at least double from current levels.

DATA PROVIDED: FIGURE 5 SHOWS THE PATH OF INTEREST RATES OVER THE PAST DECADE, NOTING THE HIGH AND LOW POINTS REACHED IN EACH YEAR.

**Figure 5: 10 Year Constant Maturity Treasury Rates
2010 to 2020**



SOURCE: FEDERAL RESERVE BANK OF ST. LOUIS

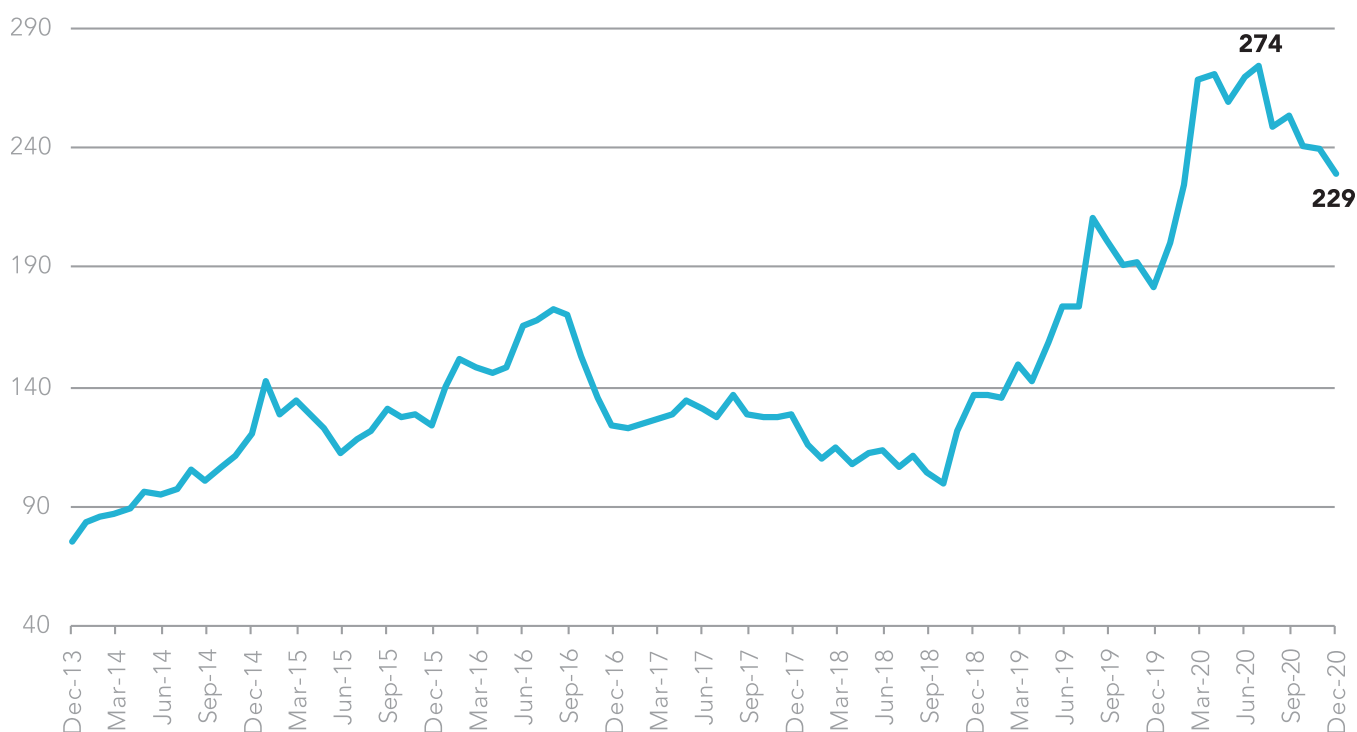
Managing Risk and Capacity

The Milliman Hedge Cost Index™ (MHCI) provides the estimated hedging cost for a hypothetical Guaranteed Lifetime Withdrawal Benefit (GLWB) block of business.

As of December 30, 2020, the expected hedge cost for a hypothetical GLWB was 229 basis points, down from a peak of 274 basis points on July 30, 2020 (roughly coinciding with the bottom in 10-Year rates) but significantly higher than the average cost over the past several years. Persistently low interest rates are the primary cause of the increase in hedging costs.

DATA PROVIDED: FIGURE 6 SHOWS TRENDS IN HEDGING COST SINCE 2013. A COMPLETE DESCRIPTION OF THE MILLIMAN METHODOLOGY CAN BE FOUND AT [HTTP://WWW.MILLIMAN.COM/MHCI-METHODOLOGY/](http://www.milliman.com/MHCI-METHODOLOGY/).

Figure 6: Expected Hedge Cost for Hypothetical GLWB



SOURCE: MILLIMAN HEDGE COST INDEX™

Product Development

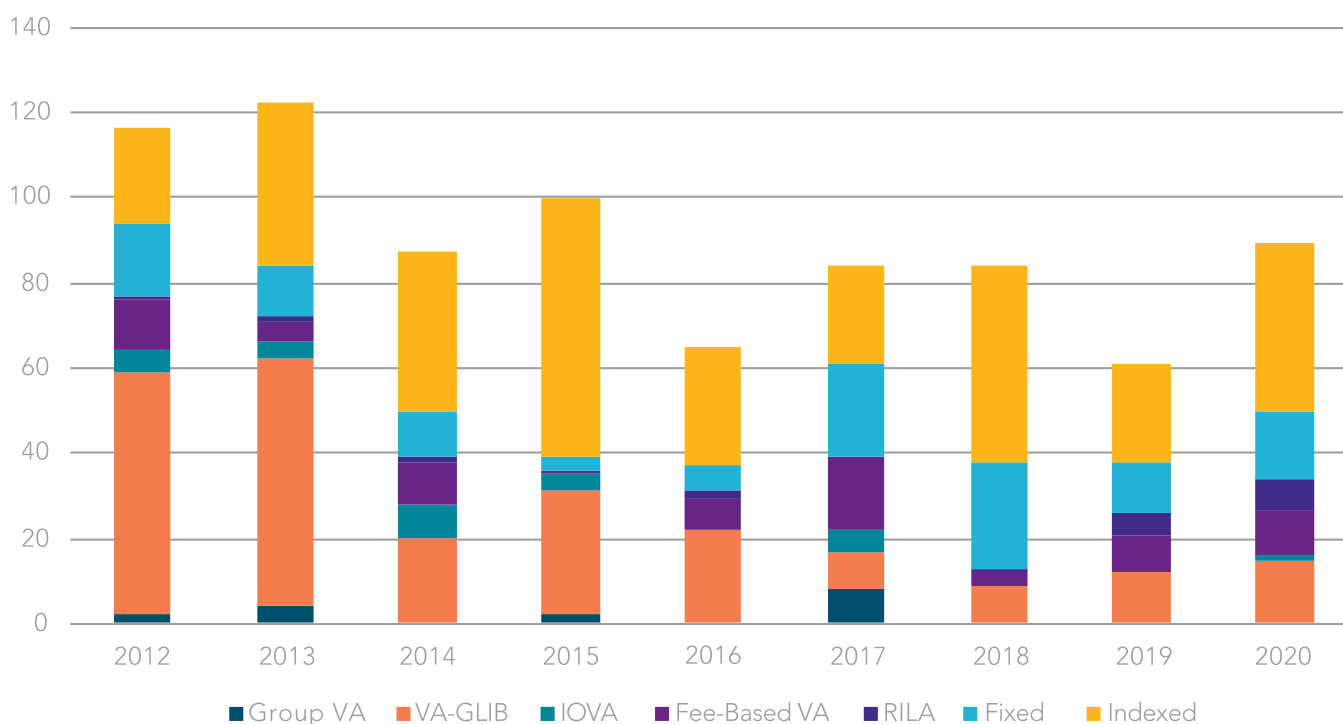
Product development in 2020 was again led by fixed and fixed indexed annuities; 39 new fixed indexed annuities and 16 new fixed products were introduced.

The new fixed annuities consisted of 14 market-value adjusted (MVA) products and two non-MVAs, as would be expected in the interest rate environment which prevailed in 2020. On the variable side, 15 commissionable variable annuities with optional lifetime income benefits were launched as well as 11 fee-based variable annuities (the most since 2017) and seven structured products (also referred to as

“register index-linked annuities,” or RILAs). True new product issuance in 2020 (as opposed to new versions of existing products) was primarily in RILA and fixed indexed annuities.

DATA PROVIDED: FIGURE 7 SHOWS ANNUITY ISSUANCE BY TYPE SINCE 2012.

**Figure 7: New Annuity Issuance
2012 to 2020**



SOURCE: MORNINGSTAR, INC. AND BEACON ANNUITY SOLUTIONS

Advisors, Their Clients and COVID-19

In 2020, financial advisors and their clients endured a roller-coaster ride of market performance in addition to having to adapt to a new way of interacting and transacting.

The IRI Advisor Council, a group of 25 experienced financial advisors from across the country and representing every distribution channel, weighed in on the topics that were top of mind for their clients during the pandemic.

Client Concern Themes Retirement Industry Implications/Solutions

Safe income	Clients want income that they can depend on and are not finding it in bonds and Certificates of Deposit (CDs). The industry can demonstrate to advisors that annuities use dollars allocated for income more efficiently than traditional fixed income investments, allowing more of the portfolio to be invested in risk assets for growth.
Retirement Risks (e.g. long-term care)	Long-term care risk looms large for an increasing percentage of the population and premiums for long-term care insurance are unaffordable for many. Advisors can use hybrid solutions to meet income needs and potential long-term care needs.
Heightened interest in annuities	An IRI-Jackson study in April 2020 found that two-thirds of advisors were having more frequent conversations with their clients about annuities, and 68 percent said they would be more likely to discuss annuities with their clients in the future.
Asset growth versus fear of a crash (volatility)	RILAs are an effective solution for advisors working with clients who both fear a market crash but are afraid of missing out on potential gains. The increase in sales volume indicates RILAs are resonating with consumers and advisors, but more product education is needed.
Inflation	Annuities can help consumers hedge against inflation. Using income producing dollars more efficiently allows investment of more of the portfolio in risk assets, which can help investors keep pace with inflation, and guaranteed income benefits in variable annuities can increase if markets perform well.
New and poorly understood market dynamics	Advisors are fielding questions about cryptocurrency and the impact of events like the Reddit induced buying frenzy in Gamestop stock. This is an opportunity for asset management firms to provide advisors with materials they can use with their clients to demystify these new and potentially confusing elements of investing.
Political risks	Analysis of the potential impact of political trends and legislation impacting retirement, taxes, and the business environment on markets is critical content for advisors who are getting questions from their clients about what might happen with their investments, and can help them talk to their clients about the importance of diversification and securing income in retirement as important hedges against future legislative uncertainty.

Provided below are the paraphrased insights from the IRI Advisor Council about common client concerns rising across 2020.

- > Concern that politics has become “party over country” and the impact of that shift on markets.
- > The impact of low interest rates, including how the drop will affect their annuities.
- > The high cost of long-term care and how to make it affordable, leading to many questions about hybrid programs.
- > Seeking conservative investment options for retirement income along with concerns about market volatility and the low interest rate environment.
- > Interest in using annuities for fixed income replacements and volatility control.
- > Cash alternatives — where to park cash in a low interest rate environment and amid possible future inflation concerns given Federal Reserve activity.
- > The impact of stimulus on taxes.
- > Home-bound clients who were limited in their ability to spend money wanted investment options other than the bank to achieve growth.
- > Financial misdirection — clients stuck at home would watch shows discussing how to triple one’s money overnight.
- > Clients with certain variable annuities were incredulous about the returns in the second half of the year, and especially that they have protection from a market crash in the form of living benefits.
- > A lot of work on beneficiary confirmation and ensuring wills and trusts are in place and up to date due to the fear of succumbing to COVID-19.
- > A lot of questions about crypto currency — what is it, should they invest in it, what does it mean for the U.S. Dollar and markets.
- > The long-term impact of the democratization of markets as potentially signaled by the Reddit/ Gamestop event.
- > Concern about a potential market crash butting up against concern about missing out on further gains created a good environment for discussing RILAs with clients.

Operations & Technology

The adoption of digital technologies continues to be a focal point of the operations and technology community within the industry as companies aim to meet advisor and customer expectations regarding seamless, automated business transactions.

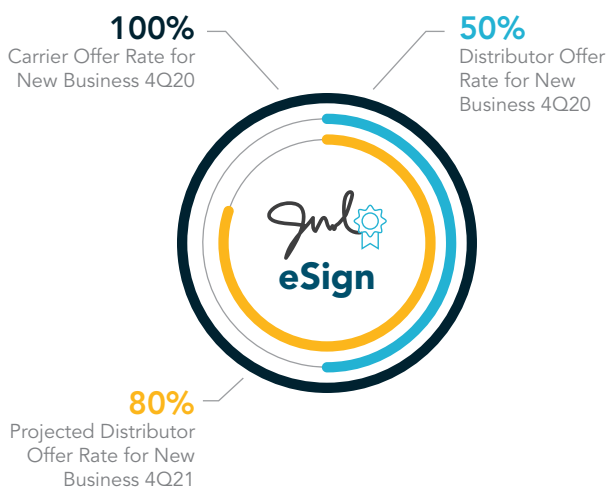
IRI has led the way on this undertaking with its Four Guiding Principles, an IRI Board-supported initiative to increase adoption of eSignature and eDelivery capabilities.

Currently, 50 percent of IRI's distribution members have eSignature capabilities for new business applications available for use with a

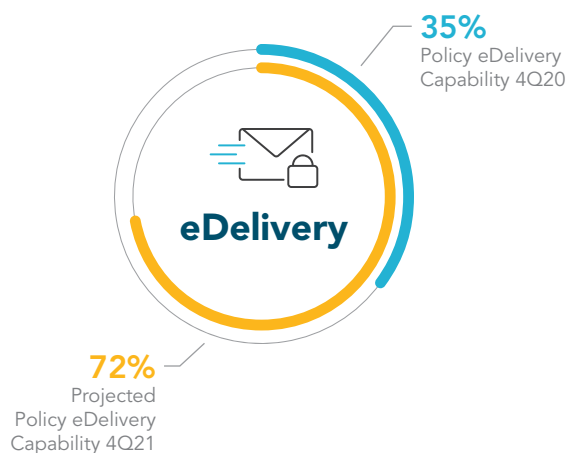
planned growth to 80 percent by Q1 2022. The advancement of eDelivery has a projected growth from current 35 percent availability in Q4 2020 to 72 percent in Q4 2021. With these core capabilities in place, the industry will continue to transform solutions across the annuity lifecycle making it easier for consumers to access products.

The Journey to Digital Solutions

Utilize eSignature Solution Capabilities on all Possible Transactions



Adopt alternative means of delivery for policy and supporting documents as the pathway to eDelivery



Public Policy Goals and Accomplishments

2020 RETIREMENT SECURITY BLUEPRINTS

Advancing legislative and regulatory initiatives is critical to addressing the challenges Americans are facing as they seek to save for and achieve a financially secure and dignified retirement. To this end, IRI

released its annual Federal and State Retirement Security Blueprints in February of 2020 which serve as guides for IRI's dialogue with policymakers, and which also outline the advocacy concerns of greatest importance to the industry.

Federal Blueprint

Expand access to enhanced workplace retirement plans	Adopt a clear, consistent, and workable best interest standard of conduct for financial professionals
Facilitate and encourage access to lifetime income products	Maintain the private-sector marketplace for retirement savings solutions
Preserve and promote access to professional financial guidance and advice	Protect seniors and other vulnerable Americans against fraud and exploitation
Enhance protections to safeguard against fraud and exploitation	Establish uniform safeguards to protect sensitive financial information
Maintain and augment the tax treatment of retirement savings	Facilitate improvements to the consumer and advisor experience

State Blueprint

COVID-19 RESPONSE

IRI shifted its focus in April to advance legislation which would help retirement savers who may have been negatively impacted by the financial effects of the COVID-19 pandemic. IRI's Five-Point Plan aimed to achieve two main objectives:

- > Enable savers to keep their tax-deferred savings longer
- > Increase opportunities for Americans to save more for retirement

To accomplish these objectives, IRI proactively engaged with Members of Congress and their staffs, calling for the following:

- > Raising of the age at which required minimum distributions must be taken to 75
- > Eliminating barriers inhibiting the use of qualified longevity annuity contracts (QLACs)
- > Allowing additional catch-up contributions for those affected by the pandemic
- > Expanding savings opportunities to the employees of non-profit organizations
- > Clarifying the start-up tax credit to incentivize small businesses to join a multiple employer plan (MEP)

IRI launched an aggressive virtual outreach campaign to congressional staff who serve on committees with jurisdiction over retirement policy issues. In conjunction with our outreach to congressional staff, IRI also launched a grassroots email write-in campaign calling for Congress to act on IRI's proposals.

The effort has generated 180 letters to 68 congressional offices. IRI also organized a coalition of trade associations to support our efforts to enact the Five-Point Plan, and five groups — FINSECA (formerly AALU-GAMA), the ERISA Industry Committee (ERIC), the National Association of Insurance and Financial Advisors (NAIFA), the National Association of Fixed Annuities (NAFA), and the National Association of Independent Life Brokerage Agencies (NAILBA) — joined the effort and announced their support in a joint letter shared with all 535 Members of Congress.

STANDARDS OF CONDUCT FOR FINANCIAL PROFESSIONALS

For more than a decade, policymakers at the federal and state levels have been working to formulate appropriate standards of conduct for financial professionals who provide personalized advice about investments and/or insurance to retail consumers. IRI and its members support the principle that financial professionals should be required to act in their clients' best interest, and IRI has been among the leaders of the financial services industry's efforts to advocate for the adoption of a clear, consistent, and workable best interest standard that will provide meaningful and effective consumer protections without depriving Americans of access to valuable financial products and services.

Following the Fifth Circuit Court of Appeals decision to vacate the Department of Labor (DOL) fiduciary rule in 2018, the focus of this debate shifted away from the DOL to the Securities and Exchange Commission (SEC), the National Association of Insurance Commissioners (NAIC), and individual state legislatures and regulators.

SEC ACTIVITY

The SEC and the Financial Industry Regulatory Authority (FINRA) engaged in significant efforts to help broker-dealers and registered representatives prepare for implementation of Regulation Best Interest (Reg BI) and Form CRS (Customer Relationship Summary). Both agencies issued regulatory guidance on various aspects of the rules, and both conducted preparedness reviews to make sure firms were taking appropriate steps aimed at achieving compliance by the time the rules took effect on June 30, 2020. Following this initial period of compliance assistance, the SEC and FINRA publicly announced their intention to increasingly emphasize examinations and enforcement going forward. SEC Chairman-designate Gary Gensler has yet to express any specific plans with respect to these rules, though IRI and many others anticipate that, at least in the short-term, he is more likely to focus on enhanced examinations and enforcement rather than seeking to re-open and potentially revise the rules.

DOL ACTIVITY

The DOL published a proposal to establish a new prohibited transaction exemption (PTE) for investment advice fiduciaries who meet a best interest standard that aligns with Reg BI. While this generally aligns with IRI's guiding principles, IRI did issue a comment letter to the DOL in August expressing our views, identifying a number of important concerns, and presenting several recommendations.

The new PTE was finalized in December 2020 and went into effect on February 16, 2021. The DOL also re-affirmed its existing temporary non-enforcement policy for firms and financial professionals operating in compliance with the best interest standard and other important conditions. This non-enforcement policy, which is scheduled to remain in effect until December 20, 2021, will provide a path for firms and financial professionals to avoid regulatory scrutiny with respect to ERISA's prohibited transaction rules while they work to achieve compliance with the conditions of the new PTE.

STATE ACTIVITY

In February 2020, the NAIC adopted amendments to its Suitability in Annuity Transactions Model Regulation (Model #275). Consistent with IRI's views on the importance of regulatory coordination, the revised Model is closely aligned with the SEC's Reg BI and Form CRS, with the appropriate distinctions necessary to reflect the differences between insurance and securities products. The revised Model requires insurance producers to act in their clients' best interest without putting their own interests ahead of their clients and it specifies that producers will satisfy this requirement by meeting four obligations: care, disclosure, conflicts of interest, and recordkeeping. The Model also requires insurance companies to supervise producers to ensure their recommendations satisfy the best interest standard.

The revised Model has been adopted in ten states (effective/compliance dates shown in parentheses):

- | | |
|----------------------|-------------------------|
| > Arizona (12/31/20) | > Michigan (6/29/21) |
| > Arkansas (6/29/21) | > Nebraska (1/1/22) |
| > Delaware (8/1/21) | > North Dakota (1/1/22) |
| > Idaho (7/1/21) | > Ohio (8/14/21) |
| > Iowa (1/1/21) | > Rhode Island (4/2/21) |

Proposals are currently pending in eight other states:

- | | |
|---------------|------------|
| > Alabama | > Montana |
| > Connecticut | > Nevada |
| > Kentucky | > Texas |
| > Maine | > Virginia |

In April 2021, the Appellate Division of the New York State Supreme Court issued a ruling that struck down the First Amendment to Regulation 187, which was adopted by the Department of Financial Services (DFS) in 2018 and applies suitability and best interest standards to annuity and life insurance recommendations, because it was found to be unconstitutionally vague. DFS is widely expected to appeal the decision to the state's highest court, the Court of Appeals, and the court will likely allow the regulation to remain in effect pending the outcome of the appeal. The appeals process could take 12-to-15 months to fully run its course.

Also, in February 2020, the state securities regulator in Massachusetts adopted a rule that imposes a fiduciary duty on broker-dealers and registered representatives, and that rule is now in effect. Similar proposals are pending in Nevada and New Jersey.

PROMOTING RETIREMENT SECURITY AND INCREASING ACCESS TO LIFETIME INCOME

SECURE ACT

In the past, many Americans relied on employer-provided pension plans for retirement security. Today, the majority of Americans are responsible for ensuring their own retirement financial security through a variety of retirement savings plans such as 401(k)s and Individual Retirement Accounts (IRAs).

In December of 2019, the *Setting Every Community Up for Retirement Enhancement Act* — or the SECURE Act — was signed into law. The SECURE Act was the most comprehensive retirement security legislation enacted in more than a decade. It substantially addressed several issues that have contributed to a national retirement crisis where too few Americans are saving enough for retirement. The new law expands opportunities for employers to offer retirement plans to more workers and it reduces barriers to facilitate the use of lifetime income options in retirement plans.

Regulatory Implementation

In 2020, following enactment of the SECURE Act, the industry and IRI shifted focus from advocacy to implementation support.

a. Initial Implementation Challenges

The Act took effect on December 31, 2019 (set when the bill was initially passed by the House of Representatives in May 2019), leaving just 12 days following enactment to prepare for compliance. Despite IRI members' best efforts to make the necessary changes to existing policies and procedures, as well as administrative, operational, and technological systems, to comply with the new law, this deadline was simply unworkable.

The Internal Revenue Service (IRS) issued guidance on February 10 regarding the SECURE Act's changes to the required minimum distribution (RMD) age notification rules. Specifically, the IRS clarified that an RMD statement provided to an IRA owner who will attain age 70½ in 2020 would not be incorrect so long as the IRA owner is notified no later than April 15, 2020 that no RMD is due for 2020. Treasury and the IRS have not yet responded to the other requests included in our December 30 letter.

b. Safe Harbor for 401(k) and Certain 403(b) Plans

On December 9, 2020, the IRS issued Notice 2020-86 to provide much awaited guidance on Sections 102 and 103 of the SECURE Act, with respect to safe harbor plans, including 401(k) Plans and certain 403(b) Plans.

Section 102 of the SECURE Act increases the 10 percent cap for automatic enrollment safe harbor plans. Section 103 of the SECURE Act eliminates certain safe harbor notice requirements for plans that provide for safe harbor nonelective contributions and adds new provisions for the retroactive adoption of safe harbor status for those plans.

The IRS specified that Notice 2020-86 "is not intended to provide comprehensive guidance as to § 102 or 103 of the SECURE Act, but rather is intended to assist taxpayers by providing guidance on particular issues." IRI will continue to work with the Treasury Department and the IRS on the development of additional regulations to fully implement these sections of the SECURE Act.

c. Pooled Employer Plans and Pooled Plan Providers

On November 16, 2020, the DOL published its Final Rule for Registration Requirements for Pooled Plan Providers (PPP), a critical step in the implementation of the Pooled Employer Plan (PEP) provisions of the SECURE Act. The Final Rule was effective upon publication in the Federal Register.

Per the Final Rule, providers can begin offering PEPs on January 1, 2021, but they must first register with the DOL using new EBSA Form PR.

d. Lifetime Income Disclosures

On September 18, 2020, the DOL published a new rule to require plan sponsors to provide participants with illustrations of the amount of monthly income that might be generated by their account balances, which was included as a priority on the IRI Federal Retirement Security Blueprint. The rule was styled as an Interim Final Rule (IFR) to comply with the requirements of the SECURE Act, and the DOL is expected to make some adjustments in crafting a final rule based on public comments received before the IFR is scheduled to take effect in September 2021.

The rule specifies a set of assumptions that may be used in formulating the required illustrations as well as model language that may be used to help participants understand the illustrations. According to the DOL, plan fiduciaries that elect to use the regulatory assumptions and model language will not be held liable in the event participants are unable to purchase equivalent monthly payments.

e. Required Minimum Distribution Rules

In June 2020, the IRS issued Notice 2020-51, which provides guidance relating to the waiver of 2020 RMDs under the CARES Act. The notice permits rollovers of waived RMDs and certain related payments, including an extension of the 60-day rollover period for certain distributions to August 31, 2020; answers questions relating to the waiver of 2020 RMDs; and provides a sample plan amendment that, if adopted, would allow participants to choose whether to receive waived RMDs and certain related payments. The notice also provides transition relief for plan administrators and payors in connection with the change in the required beginning date for RMDs pursuant to the SECURE Act.

Next Steps

The SECURE Act will help American workers and retirees address the challenges and obstacles they face in preparing for a secure and dignified retirement. There remains, however, more work to be done. In 2020, champions of retirement security on Capitol Hill continued to call for greater retirement security for Americans. As a result of their efforts, three pieces of legislation were introduced.

IRI anticipates these bills will be utilized as the foundation for another comprehensive retirement security bill and a successor to the SECURE Act. The three bills are:

- > The *Retirement Security and Savings Act* (S.1431) introduced by Senators Rob Portman (R-OH) and Ben Cardin (D-MD)
- > The *Securing a Strong Retirement Act* (H.R. 8696) introduced by House Ways and Means Committee Chairman Richard Neal (D-MA) and Ranking Member Kevin Brady (R-TX)
- > The *Improving Access to Retirement Savings Act* (S.5064) introduced by Senators Chuck Grassley (R-IA), Maggie Hassan (D-NH), and James Lankford (R-OK)

These three bills contained several measures from IRI's 2020 Federal Retirement Security Blueprint and the Five-Point Plan. These include increasing the RMD age to 75, clarifying the start-up tax credit for small businesses joining a MEP or a PEP, authorizing the creation of 403(b) plan PEPs, permitting additional catch-up contributions for Baby Boomers, expanding availability of QLACs, enabling student loan repayments to be considered as plan contributions for the purposes of an employer match, and facilitating the utilization of exchange traded funds (ETFs) in retirement plans. IRI anticipates the bills will be reintroduced in the 117th Congress and will be considered by either the House Committee on Ways and Means or the Senate Committee on Finance in either the second or third quarter of 2021.

OTHER RETIREMENT-RELATED LEGISLATION

In 2020, several bills were introduced by retirement security champions in the House of Representatives and the Senate that included measures proposed from IRI's 2020 Federal Retirement Security Blueprint which would not only expand access to savings and retirement products but also enable modernized business practices to be utilized to ensure continued operation and access to retirement savings during the pandemic. These measures include:

> **The Registration for Index Linked Annuities (RILAs) Act** (S.3795/H.R. 6994 – 116th Congress)

Introduced in the House of Representatives by Representatives Dean Phillips (D-MN) and Steve Stivers (R-OH) and in the Senate by Senators Tina Smith (D-MN) and Thom Tillis (R-NC), this bill directs the SEC to promulgate new registration forms for RILAs that are more closely tailored to those products than existing forms which were designed for use in connection with equity offerings and are not well-suited for insurance products. The promulgation of such a regulation at the SEC would reduce the barriers inhibiting the offering of innovative annuity products like RILAs and improve consumers' understanding of these products. In addition, language was included in the report accompanying the FY 2021 SEC appropriations which encouraged the commission to the SEC to create a tailored filing form for RILAs. Although report language is not a law, it is often used by Congress as part of the oversight of regulatory agencies to convey its opinion about matters to federal agencies.

> **Lifetime Income for Employees Act** (H.R. 8990 – 116th Congress)

Introduced at the end of the 116th Congress by Representatives Don Norcross (D-NJ) and Tim Walberg (R-MI), this bill would authorize the expanded use of lifetime income products as qualified default investment options (QDIAs) by removing certain liquidity requirements under current DOL regulations, which have prevented plan sponsors from utilizing annuities

and other protected lifetime income products as default investment options for workers who do not tell their employers how to invest their retirement plan contributions. While existing QDIA options provide participants with the ability to accumulate assets, such participants are given no way to convert their savings into protected guaranteed lifetime income during their retirement years.

> **E-SIGN Modernization Act**

(S.4159 – 116th Congress)

Introduced by Senators John Thune (R-SD), Jerry Moran (R-KS), and Todd Young (R-IN), this bill would amend the Electronic Signatures in Global and National Commerce Act (E-SIGN) of 2000 to streamline how consumers receive electronic documents, including account information and statements. The bill would remove an anachronistic requirement that a consumer "reasonably demonstrate" that they can receive electronic documents while requiring disclosure of software requirements prior to the consent to receive electronic communications. This change will enable individuals who are seeking to save for retirement to continue to access the documents they need without having to navigate unnecessary, decades-old requirements from the dawn of the digital age.

> **Securing and Enabling Commerce Using Remote and Electronic Notarization Act**

(S.3533/H.R. 6364)

Introduced by Senators Kevin Cramer (R-ND) and Mark Warner (D-VA) and Representatives Madeline Dean (D-PA) and Guy Reschenthaler (R-PA), this bill would authorize remote and electronic notarizations performed by a notary public regardless of the state in which the notary is commissioned if the notarization occurs in or affects interstate commerce. The bill will preserve retirement savers' ability to access products and services provided by financial professionals across the nation without risking their health and well-being by appearing in-person before a notary as is required under current law.

REGULATORY MODERNIZATION

a. Electronic Delivery — SEC Activity

In October 2020, IRI joined with the Committee of Annuity Insurers and ACLI to submit a letter to the SEC regarding the insurance industry's unique perspectives and needs relative to possible rulemaking to establish electronic delivery as the default delivery method for various disclosures and reports. Among other things, the letter addresses the challenges facing the insurance industry in obtaining email addresses from customers who originally purchased annuities many years ago.

b. Electronic Delivery — DOL Activity

In late May 2020, the DOL adopted modernized rules regarding electronic delivery of disclosures required under ERISA. The rule allows participant statements — such as quarterly account statements and fee-disclosure statements — to be delivered to plan participants in digital form rather than paper so long as certain conditions are met. Among other things, plan sponsors must notify participants when new disclosure materials are available on their website and must provide participants with paper copies of covered disclosures upon request.

c. Disclosure Requirements for Registered Index-Linked Annuities (RILAs)

Under current SEC rules, certain annuity products can only be registered using SEC forms that are designed primarily for use in connection with equity offerings (Forms S-1 and S-3). These forms require disclosure of financial information prepared in accordance with generally accepted accounting principles ("GAAP") as well as extensive information that is not relevant to prospective annuity purchasers. For insurers that are not otherwise required to prepare GAAP financials, this requirement is particularly problematic and may be a barrier to entry into this growing market space.

In September 2018, SEC staff issued no-action letters to four IRI member companies permitting them to file statutory financials in connection with securities offerings of non-variable contracts. Similar relief has since been provided to a number of other insurers.

OTHER FEDERAL REGULATORY ACTIVITY

a. Consideration of Environmental, Social, and Governance (ESG) Factors in Selecting Plan Investments

On November 13, 2020, the DOL published its Final Rule on Financial Factors in Selecting Plan Investments (commonly known as the ESG Rule) in the Federal Register. As the final rule was effective 60 days from its publication date, it became effective on January 12, 2021.

The final rule is largely consistent with the proposed rule issued in June 2020 with some modifications based on public comments. Specifically, the final rule prohibits fiduciaries from selecting investments based on non-pecuniary considerations (rather than referencing ESG factors specifically) and requires them to base investment decisions on financial factors.

IRI's primary concerns with the final rule relate to:

- (i) The additional and seemingly conflicting restrictions this rule puts on plan sponsors' ability to meet their obligations under ERISA to prudently select investment options that suit the best interest of their employees,
- (ii) The bar on utilizing ESG-influenced investments as 'qualified default investment alternatives' (QDIAs), and
- (iii) The threat of private litigation.

Upon taking office, President Biden issued an Executive Order calling for the DOL to reconsider this rule. IRI and several other industry groups met with the DOL in February 2021 to learn more about their plans for conducting this review and to explore how we can support this effort. The DOL representatives were receptive to industry input and interested in understanding the impact of the rule on industry participants. They also acknowledged the compliance challenges facing the industry given that the rule is already in effect.

In March 2021, the DOL announced that, until further guidance is issued, it will not enforce the rule against plan fiduciaries based on failures to comply in connection with any investments, including QDIAs.

b. Variable Annuity Summary Prospectus

The SEC issued a variable annuity summary prospectus proposal in October 2018 and adopted a final rule in March 2020. The following are the key elements of the final rule:

- > The rule allows the optional use of two distinct types of summary prospectuses for variable annuities and variable life insurance — an initial summary prospectus for offerings to new investors and an updating summary prospectus for use with existing investors.
- > The initial summary prospectus will provide key information about the contract's terms, benefits, and risks in a concise, plain English, and reader-friendly format, with additional information to be made available online or in paper format upon request.
- > The updating summary prospectus will provide a brief description of key changes to the contract, as well as a subset of the information included in the initial summary prospectus.
- > Certain key information about the underlying investments would be provided in both the initial summary prospectus and updating summary prospectus.
- > The Great-West line of no-action letters have been revoked as of July 1, 2020. These no-action letters have been relied on by the industry for many years to provide alternative disclosures in lieu of updated statutory prospectuses for variable contracts that are no longer being offered to new investors. Contracts relying on the relief provided under those no-action letters prior to July 1 may continue relying on that relief, but contracts that are taken off the market after that date will not be eligible for that relief and will instead have to provide updating summary prospectuses to contract-owners.
- > The registration forms for variable contracts — Forms N-3, N-4, and N-6 — were amended to consolidate certain summary information and reflect recent developments in the industry, such as the increasing prevalence of optional benefit riders since the forms were originally developed over 30 years ago.

CYBERSECURITY AND DATA PRIVACY

With the increasing use of digital solutions and the experience of electronic commerce throughout the COVID-19 pandemic, regulators are prioritizing efforts to safeguard Americans' sensitive personal and financial information.

a. Federal Activity

Capitol Hill continues to focus on developing a national standard for cybersecurity and data privacy. Late in 2019, Senator Roger Wicker (R-MS), then Chairman of the Senate Committee on Commerce, released a discussion draft for a consumer data privacy bill prior to holding a hearing examining the issue. The draft legislation provides standards for transparency and consumer rights to access, correct and delete their data; requires affirmative consent before collecting, processing, or transferring data; calls for a Federal Trade Commission (FTC) study examining the use of algorithms that may violate anti-discrimination laws; and provides for the enforcement of the bill's provisions by the FTC and state attorneys general. Additionally, the draft would provide carve outs for Gramm-Leach-Bliley Act covered entities. In response, Senator Maria

Cantwell (D-WA) introduced a proposal that includes similar standards to the Wicker proposal but would be enforced through a private right of action and would establish a preemption floor.

Senator Jerry Moran (R-KS), then Chairman of the Senate Commerce Committee's Consumer Protection Subcommittee, introduced the Consumer Data Privacy & Security Act. The bill would establish a federal standard for data privacy protection — eliminating the patchwork of state laws — and provide consumers with a right to correct and erase any data collected. Additionally, the bill would require additional layers to “protect and responsibly process” data, require consumer consent for collection, require business to construct “robust” security programs, and authorize enforcement through the FTC and the state attorneys general. The bill would not supersede Title V of Gramm-Leach-Bliley or HIPAA.

The House Committee on Energy and Commerce also issued a discussion draft for comment in 2020. The House discussion draft would provide the FTC with significant rule making authority to establish a federal standard. However, the draft did not contain provisions preempting the existing patchwork of state legislation and regulation. IRI provided comments advocating for preemption, opposing a private right of action, and proposing a change of “covered information” to better reflect the unique relationships involving a workplace retirement plan sponsor, plan participants, and service providers.

The House Financial Services and General Government Appropriations Subcommittee report accompanying the appropriations bill contained several provisions aimed at improving cybersecurity standards and better protecting Americans from cybercrimes. Of interest to IRI members is language encouraging the Office of Foreign Assets Control to “continue preventing known foreign sponsored actors of cybercrime from accessing the United States financial markets.” The report notes that the Appropriations Committee is concerned that “cyber criminals, state sponsored or otherwise, are still gaining access to payments through financial markets and their activities pose a substantial national and economic threat to the United States.”

b. State Activity

The NAIC adopted its Insurance Data Security Model Law in 2017 to provide standards for data security, investigation, and consumer breach notification requirements. To date, the NAIC model law has been adopted — with some variations — in 11 states: AL, CT, DE, IN, LA, MI, MS, NH, OH, SC and VA. In addition, legislative proposals to enact the model are pending in at least three other states.

One of the NAIC's 2021 regulatory priorities is to review state insurance privacy rules governing the collection, use, and disclosure of information gathered in connection with insurance transactions, and to make recommended changes, as needed, to certain NAIC models, such as the NAIC Insurance Information and Privacy Protection Model Act (#670) and the Privacy of Consumer Financial and Health Information Regulation (#672). Of note, California and Virginia have adopted their own, broad spectrum consumer data protection laws.



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